

Message Text

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45

ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOTE-00 INR-07 NSAE-00 FAA-00 L-02 TRSE-00 OMB-01

IO-10 H-02 /044 W

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P 151249Z MAY 75

FM AMEMBASSY VIENNA

TO SECSTATE WASHDC PRIORITY 5675

LIMITED OFFICIAL USE VIENNA 4203

E.O. 11652: N/A

TAGS: EAIR, AU

SUBJECT: CIVAIR: PAN AM PLAN CONCERNING PAYMENT OF COMMISSIONS
TO TRAVEL AGENTS

REF: VIENNA 4143 AND PREVIOUS

1. PAN AM LOCAL REP ADVISED EMBASSY THIS MORNING THAT
COMPANY HAS RECEIVED LETTER FROM THEIR ATTORNEY GIST OF
WHICH IS AS FOLLOWS:

A) AUSTRIAN/U.S. BILATERAL OF 1966 WAS PUBLISHED IN
AUSTRIAN GAZETTE ON AUGUST 4, 1966, AND THEREFORE HAS THE
FORCE OF LAW IN AUSTRIA BY VIRTUE OF THIS PUBLICATION.
(LAWYER'S LETTER DOES NOT ADDRESS ITSELF TO QUESTION OF
POSSIBLE DIFFERENCES IN THE INTERPRETATION OF BILATERAL.)

B) LETTER ALSO CAUTIONS PAN AM THAT IT MIGHT BE
LIABLE TO BEING SUED BY OTHER CARRIERS IN AUSTRIA UNDER
LAWS AGAINST UNFAIR COMPETITION, SINCE PAN AM APPARENTLY
ONLY CARRIER WHICH WOULD BE PAYING HIGHER COMMISSION.

C) LETTER ALSO ADVISES CAUTION IN VIEW OF PAN AM
CHARTER FLIGHTS, WHICH CONCEIVABLY MIGHT BE SUBJECT
TO WITHDRAWAL OF LANDING RIGHTS BY LOCAL GOVERNMENT IF
PAN AM WERE TO PERSIST WITH 10 PERCENT COMMISSION PLAN.
(ACCORDING TO LOCAL PAN AM REP, PAN AM IS PLANNING 30-40
CHARTERS FROM THE U.S. TO AUSTRIA THIS YEAR AND ABOUT
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10 CHARTERS FROM AUSTRIA TO THE U.S. WE UNDERSTAND GOA

NOW IN PROCESS OF REVISING ITS CHARTER REGULATIONS.)
D) LETTER ALSO QUESTIONS WHETHER MARKET ADVANTAGE
PAN AM MIGHT GAIN THROUGH HIGER COMMISSIONS WOULD BE
WORTH RISKS INVOLVED.

2. PAN AM REP HAS SUGGESTED THAT EMBASSY ASK GOA
VERBALLY AND INFORMALLY FOR CONFIRMATION THAT BILATERAL
HAS FULL FORCE OF LAW IN AUSTRIA. (COMMENT: THIS SEEMS
TO US UNNECESSARY.)

3. COMMENT: ATTORNEY'S LETTER REINFORCES OUR OWN
JUDGMENT AS CONTAINED REFTEL THAT PAN AM WOULD BE WISE
TO AVOID A COLLISION COURSE WITH GOA ON THIS MATTER.
FYI: WE HAVE DISTINCT IMPRESSION THAT PAN AM HERE ALSO
BELIEVES IT IS UNWISE TO PURSUE 10 PERCENT COMMISSION
PLAN. END FYI. PAN AM DIRECTOR LOY IS IN LONDON TODAY
FOR DISCUSSIONS WITH PAN AM OFFICE THERE. UNLESS
INSTRUCTED TO THE CONTRARY WE PROPOSE TO TELL LOY WHEN
HE CONTACTS EMBASSY TOMORROW THAT HE WOULD BE WELL
ADVISED TO PURSUE HIS LAWYER'S COUNSEL. IF DEPARTMENT
BELIEVES ISSUE OF BILATERAL MUST BE ADDRESSED IN VIEW OF
GOA LETTER TO PAN AM, WE WOULD SUGGEST AN INFORMAL,
LOW-KEY STATEMENT TO GOA, FOR THE RECORD, THAT GOA
INTERPRETATION OF THE BILATERAL IN THIS CASE IS AT
VARIANCE WITH OURS, AND THAT WE LET MATTER GO AT THAT.

4. IDEALLY WE BELIEVE IT WOULD BE BETTER NOT EVEN TO
RAISE THE BILATERAL ISSUE, WHICH GOA HAS NOT RAISED
DIRECTLY WITH US. GOA HAS NEVER OFFICIALLY ACKNOWLEDGED
EMBASSY NOTE OF FEB. 5, 1975, DESIGNATING TWA TO OPERATE
SCHEDULED SERVICE TO AUSTRIA AND HAS NEVER RAISED QUESTIONS
ABOUT PAN AM'S DESIGNATION (SEE PARA 2 STATE 24552) --
ANOTHER REASON IT SEEMS TO US FOR LETTING SLEEPING DOGS
LIE. BUCHANAN

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Message Attributes

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Margaret P. Grafeld
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